

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

CARLOS EDUARDO HERRERA DE LA ROSA, INDIVIDUALLY AND ON BEHALF OF OTHERS SIMILARLY SITUATED,

Plaintiff,

V.

SMART ALABAMA, LLC; AND TOTAL
EMPLOYEE SOLUTION SUPPORT, LLC;

Defendants.

**CIVIL ACTION FILE NO.:
1:23-cv-01519-SCJ**

CLASS ACTION

JOINT MOTION TO STAY PROCEEDINGS

COME NOW Plaintiff Carlos Eduardo Herrera de la Rosa and Defendants SMART Alabama, LLC (“SMART”) and Total Employee Solution Support, LLC (“TESS”) (together, “Defendants”), in the above-styled action, and move this Court to stay the proceedings and all pending deadlines in this civil lawsuit and state the following in support thereof:

1. Plaintiff filed his Class Action Complaint on April 7, 2023. (Doc. 1.)
2. Defendants filed their motions to dismiss and briefs in support thereof on or before June 23, 2023. (Docs. 12, 14.)

3. Currently, Plaintiff's Responses to Defendants' motions are due on or before August 7, 2023.

4. The parties have discussed potential case resolution and all agree that mediation may be an effective means of attempting to resolve this dispute; therefore, the parties have agreed to mediate this case.

5. There is an additional case pending in the Northern District of Georgia, Atlanta Division that involves Defendant SMART and Plaintiff's counsel. See *Acosta v. Smart Alabama, LLC; et al.*, Civil Action File No. 1:22-cv-1209-TWT. The *Acosta* case similarly asserts employment claims for TN visa fraud under the federal and Georgia Racketeer Influenced and Corrupt Organizations Acts ("RICO"). The parties believe that the likelihood of resolution of this case increases with the global resolution of both cases.

6. The parties have agreed on a mediator and anticipate that the mediation will take place in October of 2023.

7. A brief stay of the proceedings and deadlines in this case will conserve judicial resources and result in time savings for the Court, particularly if the case is resolved. A similar request for stay is being submitted in the *Acosta* case.

8. Because the parties' desire to conserve their time and resources in an effort to get the case resolved, a stay of the proceedings and extension of deadlines, including Plaintiff's Response deadline, will permit the parties to mediate this case and the *Acosta* case without the parties incurring the expense and time of further litigating this matter, and would allow the parties to allocate their resources towards mediation and thereby, increase the possibility of settlement through mediation.

9. Therefore, the parties respectfully request that this Court stay all proceedings in this case and stay all remaining deadlines.

10. Following mediation, in the event the case is not settled, the parties will confer and propose to the court applicable new deadlines.

WHEREFORE PREMISES CONSIDERED, the parties respectfully request that their Motion be granted and this case be stayed pending the mediation outcome.

Respectfully submitted on August 3, 2023.

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CERTIFICATE OF COMPLIANCE AND SERVICE

I certify that on August 3, 2023, I prepared the foregoing Joint Motion to Stay Proceedings in Book Antiqua, 13-point type in accordance with L.R. 5.1(C). I further certify that I electronically filed the foregoing with the Clerk of the Court through the CM/ECF system, which will automatically generate notice of such filing to the attorneys of record.

s/ Michael L. Lucas

Michael L. Lucas (*pro hac vice*)
One of the Attorneys for Defendant
SMART Alabama, LLC